

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHN M. SPAHN, IRA, on Behalf of Himself and )  
All Others Similarly Situated, )

Plaintiff, )

vs. )

EDWARD D. JONES & CO., L.P., THE JONES )  
FINANCIAL COMPANIES, L.L.P., EDJ )  
HOLDING COMPANY, INC., JOHN W. )  
BACHMANN, DOUGLAS E. HILL, MICHAEL )  
R. HOLMES, RICHIE L. MALONE, STEVEN )  
NOVIK, DARRYL L. POPE and ROBERT )  
VIRGIL JR., )

Defendants. )

**CLASS ACTION**

Cause No.: 4:04CV00086 HEA

**Consolidated with:**

4:04CV00189 CAS

4:04CV00225 DJS

4:04CV00282 DJS

4:04CV00466 HEA

4:04CV00467 HEA

MISSOURI CIRCUIT COURT  
TWENTY-SECOND JUDICIAL CIRCUIT  
(City of St. Louis)

RACHEL M. ENRIQUEZ, Custodian for )  
Diego Enriquez under IL/UTMA, On Behalf )  
of Herself and All Others Similarly Situated, )

Plaintiff, )

v. )

EDWARD D. JONES & CO., L.P., et al., )

Defendants. )

Cause No. 22042-0126-02

Division No. 9

**DECLARATION OF WAYNE T. LAMPREY FILED ON BEHALF OF GOODIN,  
MACBRIDE, SQUERI, DAY & LAMPREY, LLP, IN SUPPORT OF APPLICATION  
FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

I, WAYNE T. LAMPREY, declare as follows:

1. I am a member of the firm Goodin, MacBride, Squeri, Day, & Lamprey, LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the prosecution and settlement of the claims asserted in the above-entitled action and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. I am an attorney in good standing and duly licensed and admitted to the State Bar of California, and have been admitted pro hac vice in this Court. The testimony set forth in this Declaration is based on information and belief and records maintained in the ordinary course of business by the firm.

3. This firm is counsel of record for plaintiff Rachel M. Enriquez, Custodian for Diego Enriquez under IL/UTMA.

4. The identification and background of my partners is attached hereto as Exhibit A.

5. As counsel of record, the firm participated in conducting factual investigation and legal research, including extensive document review; drafting the petition; drafting and responding to discovery; substantial law and motion practice that included discovery motions, motions to dismiss, motions to remand, scheduling motions, appellate writs and motion for class certification; negotiations with counsel for other plaintiffs, negotiations with defense counsel, including extended settlement negotiations, mediations, meeting and consulting with expert witnesses, and finalizing the settlement.

6. The total number of hours spent on this litigation by my firm is 2,159. The total lodestar amount for attorney/paralegal time based on the firm's current hourly rates is \$725,117.75. The hourly rates shown below are our current usual and customary rates. The

schedule was prepared from computerized records kept by my firm in the ordinary course of business. A breakdown of the lodestar is as follows:

Name (Status)	Hourly Rate	Cumulative Hours	Cumulative Lodestar
Lamprey, Wayne (P)	500.00	591.20	295,600.00
Goodin, Robert (P)	650.00	20.50	13,325.00
Radford, Fran (P)	375.00	113.80	42,675.00
Hartman, Anne (A)	300.00	262.20	78,660.00
Goffin, Glenn (A)	250.00	523.10	130,775.00
Johnson, Keith (A)	285.00	224.25	63,911.25
Stricker, Nancy (PLG)	115.00	24.60	2,829.00
Patrick, Heather (PLG)	135.00	1.00	135.00
Catharine Langer (K)	225.00	99.20	22,320.00
Julianne Moon (K)	250.00	99.30	24,825.00
Janene A. Murtha (K)	250.00	96.25	24,062.50
Rebecca Turner (K)	250.00	104.00	26,000.00
<b>TOTAL</b>		2159.40	725,117.75

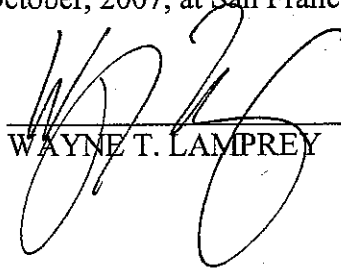
P = Partner; A = Associate; PLG = Paralegal; K = Contract Attorneys

7. My firm has incurred expenses totaling \$45,635.15 in connection with the prosecution of this litigation. The expenses were recorded as they were incurred, and are reflected in the firm's computerized bookkeeping records, which were created from invoices, receipts and other proofs of the charges and payments. They are broken down as follows:

Disbursement	Total
Meals, Hotels & Transportation	17,503.52
Photocopies	4,244.18
Postage	1,188.08
Telephone, Facsimile	641.54
Messenger, Overnight Delivery	708.92
Filing, Witness & Other Fees	222.00
Lexis, Westlaw, Online Library Research	8,126.91
Litigation Fund	13,000.00
<b>TOTAL</b>	45,635.15

8. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 8 day of October, 2007, at San Francisco, California.



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WAYNE T. LAMPREY

## **EXHIBIT A**

### **Wayne T. Lamprey**

Assistant U.S. Attorney for six years, Wayne T. Lamprey rejoined GMSRD as a litigation partner and head of the practice group for "whistle-blower" actions under the False Claims Act. His expertise in this arena is widely recognized: he won one of the largest-ever financial institution fraud cases, recovering \$100 million for the Federal Deposit Insurance Corporation (FDIC).

As assistant U.S. Attorney, Northern District of California, Criminal Division, from 1991-97, he prosecuted white-collar crime in many areas of fraud, including securities, bank, savings and loan, government contract, health care and investment. He has argued numerous appeals before the 9th U.S. Circuit Court of Appeals, and is the recipient of numerous awards from the U.S. Department of Justice and a frequent speaker at national conferences on investigating and prosecuting fraud.

From 1987-91, Lamprey practiced with Jackson, Tufts, Cole & Black in San Francisco, where he pursued his successful recovery case for the FDIC. During the early 1980s, he was associated with Armour, Goodin, Schlotz & MacBride and then with Heller, Ehrman, White & McAuliffe, in San Francisco.

He earned a B.A. from the University of California, Santa Cruz, in 1977, and a J.D. from the University of California, School of Law (Boalt Hall) Berkeley, in 1980.

### **Robert A. Goodin**

Robert A. Goodin, one of the founding partners of GMSRD, is a trial lawyer specializing in complex commercial litigation.

Before founding GMSRD in 1978, Goodin was an associate with Heller, Ehrman, White & McAuliffe, San Francisco, for three years. From 1974-75, he clerked for Judge Charles B. Renfrew, U.S. District Court, Northern District of California. He was admitted to the U.S. Supreme Court in 1981.

He is a member of numerous professional organizations, including the American College of Trial Lawyers, the American Law Institute, the San Francisco Neighborhood Legal Assistance Foundation and the Lawyer's Committee for Civil Rights. A fellow of the American Bar Foundation, he frequently teaches trial advocacy at various institutions, among them the National Institute for Trial Advocacy.

He graduated from Harvard College with a B.A. in 1968 and from the University of California, School of Law (Boalt Hall) Berkeley, with a J.D. in 1974.

### **Francine T. Radford**

Francine T. Radford has been with GMSRD's business litigation group since 1993. She is admitted to all federal district courts of California and the 9th U.S. Circuit Court of Appeals.

Ms. Radford has been an adjunct professor at Golden Gate Univeristy School of Law, has served as an arbitrator for the Bar Association of San Francisco Homeless Shelter Pro Bono Arbitration Project, and as a member of the board of the San Francisco Women Lawyers Alliance.

A summer associate at Pillsbury Madison & Sutro (now Pillsbury Winthrop) in 1992, she was also managing editor of the Golden Gate University *Law Review* and won American Jurisprudence awards in contracts, torts, conflict of laws and criminal procedure.

She received her B.A. from Wellesley College in 1982 and graduated from Golden Gate University School of Law with high honors in 1993.

**Anne H. Hartman**

Anne Hayes Hartman joined the business litigation group of GMSRD in 1999, and has extensive commercial litigation experience in state and federal courts. She has represented clients in business disputes and in the litigation of antitrust, wrongful termination, and toxic tort claims. She is a member of the State Bar of California and the Section on Antitrust and Trade Regulation.

Hartman received her A.B. (magna cum laude) from Columbia College of Columbia University in the City of New York, and attended the University of California at Berkeley for graduate school, graduating in 1996 with a J.D. from Boalt Hall School of Law and a M.P.P. from the Goldman School of Public Policy. At Berkeley, she served as a teaching assistant for Quantitative Methods for Policy Analysis, Criminal Justice Policy, and Introduction to Policy Analysis.

Prior to joining GMSRD, Hartman was associated with Jackson Tufts Cole & Black, LLP of San Francisco.

**Keith E. Johnson**

Keith E. Johnson, with the business litigation group since 1999, has represented clients in state and federal court in products liability, toxic tort, personal injury, employment discrimination, and general commercial litigation.

He is a member of the California and Texas State Bars.

He received a B.A. from Louisiana State University; an M.A. from the University of Houston; and a J.D. from the University of Houston Law Center. Prior to joining Goodin, MacBride, he was a partner with the litigation firm of Goforth, Lewis & Williams in Houston, Texas.

**Glenn M. Goffin**

Glenn M. Goffin joined GMSRD's business litigation group as of counsel in 2003. He is a member of the State Bar of California, and is admitted to the United States District Courts for the Northern, Central and Southern Districts of California, and the Ninth and Tenth Circuit Courts of Appeals.

Mr. Goffin has extensive experience in plaintiffs' class action practice and complex business litigation, and has obtained successful outcomes in cases involving securities fraud, unfair business practices, antitrust, and various commercial disputes.

Prior to GMSRD, Mr. Goffin operated his own business litigation practice for several years. Before that, he was an associate with David B. Gold, APLC (now Gold Bennett Cera & Sidener LLP).

Mr. Goffin serves as counsel to the Board of Directors of Wat Buddhansorn, the Thai Buddhist temple located in Fremont, California, and is a member of the World Affairs Council of Northern California. He speaks French, Thai, and several other languages.

He received his Bachelor of Arts in History from Swarthmore College, and his Juris Doctor (cum laude) from Suffolk University Law School, where he was Technical Editor of the Suffolk University Law Review, and won American Jurisprudence Awards in Criminal Law and Professional Responsibility.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHN M. SPAHN, IRA, On Behalf of	)	Case No. 4 04CV00086HEA
Himself and All Others Similarly Situated,	)	
	)	Consolidated Case Nos.
Plaintiffs,	)	
	)	4:04-CV-00118 CAS
v.	)	4:04-CV-00255 DJS
	)	4:04-CV-00282 DJS
EDWARD D. JONES & CO., L.P.,	)	4:04-CV-00466 HEA
JOHN W. BACHMANN, DOUGLAS E.	)	4:04-CV-00467 HEA
HILL, MICHAEL R. HOLMES, RICHIE L.	)	
MALONE, STEVEN NOVIK, DARRYL L.	)	<u>CLASS ACTION</u>
POPE and ROBERT VIRGIL JR.,	)	
	)	
Defendants.	)	

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RACHEL M. ENRIQUEZ, Custodian for	)	Cause No. 4 06CV00547HEA
Diego Enriquez under IL/UTMA, On Behalf	)	
of Herself and All Others Similarly Situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Removed from the Circuit Court
	)	of the City of St. Louis, Missouri
EDWARD D. JONES & CO., L.P., et al.,	)	Cause No. 042-00126A
	)	
Defendants.	)	

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DECLARATION OF JOSEPH H. WEISS FILED ON BEHALF OF WEISS & LURIE IN  
SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS'  
FEEES AND REIMBURSEMENT OF EXPENSES



I, JOSEPH H. WEISS, Declare as follows:

1. I am a member of the firm Weiss & Lurie. I am submitting this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the prosecution and settlement of the claims asserted in the above-entitled action and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. This firm is Co-Lead Counsel for the *Spahn* Plaintiffs. In serving as Plaintiffs' Co-Lead Counsel, my firm participated in all of the activities in the *Spahn* action which, together with the *Enriquez* and *Bressler* actions, resulted in the \$127.5 million proposed settlement. These activities included conducting a pre-filing investigation, filing an initial complaint, negotiating with other plaintiffs' counsel to co-ordinate the action brought by our client with other pending litigation, participating in the preparation and filing of the first and consolidated amended complaints, participating in a continuing investigation of the claims and theories at issue, briefing the motion to partially lift the stay imposed by the Private Securities Litigation Reform Act, reviewing, analyzing and coding the over two million pages of documents produced by Defendants, briefing plaintiffs' opposition to defendants' motion to dismiss, participating in initial case management conferences and the formulation of a discovery plan, participating in the development of mediation strategies and formulating damage theories and proposals for allocation of settlement funds, coordinating with defense counsel, drafting correspondence, stipulations and notices on behalf of the plaintiffs for matters arising during pretrial proceedings, employing and consulting with experts, preparing for and participating in mediation proceedings, consulting with co-counsel and counsel for the State Cases on settlement strategies and objectives, coordinating and negotiating with counsel for the State Cases, drafting settlement documents, negotiating settlement terms, developing the plan of allocation, developing the Credit

Voucher terms and conditions, moving to enforce the settlement, moving and arguing for preliminary approval of the settlement, renegotiating the settlement terms, drafting the comprehensive settlement documentation, participating in the administration of the settlement, communicating with Class members, organizing, maintaining and analyzing a database of opt-outs to the settlement; negotiating with Defendants regarding the level of opt-outs, briefing in connection with Defendants' motion to re-notice certain Class members, negotiation with Defendants of the amendment to the settlement stipulation to preserve the settlement, and moving for final approval of the settlement.

3. The identification and background of my firm is attached hereto as Exhibit A.

4. The total number of hours spent on this litigation by my firm is 6,060.75. The total lodestar amount for attorney/paralegal time based on the firm's current rates is \$2,821,686.25. The hourly rates shown below are the usual and customary rates charged in all of our cases. A breakdown of the lodestar is as follows:

NAME	STATUS	HOURLY RATE	HOURS	TOTAL LODESTAR
Joseph H. Weiss	P	\$745.00	527.50	\$392,987.50
Joseph D. Cohen	A	\$615.00	5.50	\$3,382.50
Moshe Balsam	A	\$615.00	42.00	\$25,830.00
David C. Katz	A	\$615.00	6.00	\$3,690.00
James E. Tullman	A	\$610.00	45.00	\$27,450.00
Richard A. Acocelli	A	\$610.00	1,643.50	\$1,002,535.00
Jack I. Zwick	A	\$595.00	11.00	\$6,545.00
Deborah J. Lea	A	\$475.00	233.00	\$110,675.00
Julia Sun	A	\$400.00	832.00	\$332,800.00
Alexander E. Maurillo	A	\$400.00	134.50	\$53,800.00
Ilya Nuzov	A	\$375.00	54.50	\$20,437.50

Aram Jafarey	A	\$375.00	205.50	\$77,062.50
Derek J. Haskell	A	\$375.00	131.00	\$49,125.00
Julia Kunina-Malladi	A	\$375.00	748.75	\$280,781.25
Michael Rogovin	A	\$350.00	576.00	\$201,600.00
Alyssa Zupkoff	A	\$325.00	148.00	\$48,100.00
Benjamin J. Zeitlin	A	\$275.00	179.50	\$49,362.50
Catherine Chrysler	A	\$275.00	218.00	\$59,950.00
Mary A. Nastasi	PL	\$245.00	4.50	\$1,102.50
Phyllis J. Mehl	PL	\$245.00	6.00	\$1,470.00
Jerry Silver	PL	\$245.00	38.50	\$9,432.50
Courtney Askew	PL	\$235.00	202.00	\$47,470.00
Elliot Galler	PL	\$235.00	68.50	\$16,097.50
<b>Totals</b>			<b>6,060.75</b>	<b>\$2,821,686.25</b>

P = Partner A = Associate PL = Paralegal

5. My firm incurred a total of \$194,236.27 in unreimbursed expenses in connection with the prosecution of this litigation. They are broken down as follows:

CATEGORIES	AMOUNT
Business Wire	\$320.00
Contribution to the Litigation Funds	\$65,479.45
Computer Research Lexis	\$89,625.98
Computer Expense	\$2,305.14
Local Transportation, Taxi, Trains	\$2,293.38
Airfares	\$10,238.90
Hotels and Hotel Internet Charges	\$5,316.09
Car Service	\$1,638.10
Meals	\$6,059.32
Outside Copy Services	\$2,074.52

Overnight Mail and Postage	\$971.44
Photocopy In-House	\$5,032.75
Telephone, Telecopy and Misc.	\$2,836.20
Messenger Service	\$45.00
<b>TOTAL</b>	<b>\$194,236.27</b>

6. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 8<sup>th</sup> day of October, 2007, at New York, New York

  
JOSEPH H. WEISS

# **EXHIBIT A**

## WEISS & LURIE

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The Fred French Building  
551 Fifth Avenue  
New York, New York 10176  
TEL. (212) 682-3025  
FAX (212) 682-3010

New York . Los Angeles

### FIRM BIOGRAPHY

The law firm of Weiss & Lurie has offices in New York City and Los Angeles. In courts throughout the United States, the firm has litigated hundreds of stockholder class actions brought for violations of federal securities laws and shareholder class and derivative actions brought for violations of corporate and fiduciary duties. The firm also represents consumers in several class actions in the area of consumer fraud and unfair practices. The firm has served as lead counsel in numerous actions on behalf of defrauded institutions and individuals for whom it has recovered well over a billion dollars.

Numerous courts have commended the firm for its expertise and ability:

In Brody v. U.S. West, et al., No. CV-4142 (D. Colo.), Judge Coughlin observed that the case “was litigated by extremely talented lawyers” and “it took a great deal of skill to get to the point of trial.” Referring to the firm, Judge Coughlin stated “there wasn’t any other lawyers in the United States that took the gamble that these people did. Not one other firm anywhere said, ‘I am willing to take that on’...[the shareholders are] fortunate that they had some lawyers that had the guts to come forward and do it...I had the opportunity to watch these attorneys throughout this period of time when I had this case and the [lawyers’] ability is terrific.”

In In re McLeodUSA Inc. Securities Litigation, No. C02-0001-MWB (N.D. Iowa), Chief Judge Mark Bennett stated at the final approval hearing: “I thought you all did a great job in this litigation” and “I think very highly of the work that all the lawyers did in the case, and [I am] pleased that you were able to get it resolved.”

**WEISS & LURIE**

In Ellison v. American Image Motor, et al., Civil Action No. 97-3608 (S.D.N.Y.), Judge Chin, approving the settlement and fee application, commented that "It has been many years. The case was hard fought, very capable counsel on both sides, and I saw counsel many times. It was a hard fought case. It was a difficult case."... "It's probably not said very often, but in this case I think plaintiffs' counsel are being under paid." ... "Counsel did a great job..."

In In re United Telecommunications, Inc. Securities Litigation, No. 90-2251-0 (D. Kan.), Judge O'Conner stated "the court finds that plaintiffs' counsel were experienced and qualified attorneys with outstanding professional reputations in securities litigation who ably and zealously prosecuted the instant case on behalf of the class."

In In re VeriFone Inc. Securities Litigation, No. C-93-3640 DCJ (N.D. Cal.), Judge Jensen stated "I think the case was handled extremely well, extremely professionally, so I think you've done very well."

In In re Western Digital Securities Litigation, SACV 91-375(A) GLT (RWRx) (C.D. Cal.), Judge Taylor complimented plaintiffs' attorneys' work in the action, specifically noting "the caliber of the work involved [and] the quality of the attorneys involved."

In Georgallas v. Martin Color-Fi, Inc., Civil Action No. 6:95-06483 (D.S.C.), Judge Anderson expressed "the utmost respect" for the work of the firm.

In Bash v. Diagnostek, CV 94-794 M (D.N.M.), Judge Black said the case provided "a model for how commercial litigation should be conducted and can be resolved."

In In re National Medical Enterprises Litigation, CV 93-5223-TJH and CV 93-5313-TJH (C.D. Cal.), Judge Hatter summed up the settlement hearing by saying, "I want to again thank counsel for the work that you put into this and hopefully it's a settlement for which the claimants themselves will be appreciative of the results."

## WEISS & LURIE

In In re Santa Fe Southern Pacific Corporation, Consol. Civ. No. 9523 (Del. Ch.), Chancellor Allen of the Delaware Chancery Court approved a settlement and cited the creativity and sophistication of plaintiffs' counsel.

Some of the actions which highlight the firm's accomplishments are:

### CASES IN WHICH WEISS & LURIE WAS LEAD OR CO-LEAD COUNSEL

Jordan v. California Department of Motor Vehicles (Sacramento Cal.): The California Court of Appeal, Third Appellate District, held that the State of California's \$300 smog impact fee was unconstitutional, paving the way for the creation of a \$665 million fund and full refunds, with interest, to 1.7 million motorists.

In re Geodyne Resources, Inc. Securities Litigation (Harris Cty. Tex.): A recovery (including related litigation) totaling over \$200 million was obtained for the class.

Freddie Mac Derivative Litigation (S.D.N.Y.): Approximately \$100 million was recovered for the Company and significant corporate governance measures were adopted.

Brody v. U.S. West, et al., (D. Colo.): A recovery of \$50 million was obtained for the class.

In re Tenneco Securities Litigation (D. Tex.): A recovery of \$50 million was obtained for the class.

In re Community Psychiatric Center Securities Litigation (C.D. Cal.): A recovery of \$42.5 million was obtained for the class.

In re Crazy Eddie Securities Litigation (S.D.N.Y.): A recovery of \$42 million was obtained for the class.

In re Apria Healthcare Group Securities Litigation (Orange County Cal.): A recovery of \$42 million was obtained for the class.

In re Canon Group Securities Litigation (C.D. Cal.): A recovery of \$33 million was obtained for the class.

In re Platinum Software Securities Litigation (C.D. Cal.): A recovery of \$32 million was obtained for the class.

In re McLeodUSA Inc. Securities Litigation, (N.D. Iowa): A recovery of \$30 million was obtained for the class.

In re United Telecommunications Securities Litigation (D. Kan.): A recovery of \$28 million was obtained for the class.

In re Bergen Brunswig Corp. Sec. Litig., (C.D. Cal.): A recovery of \$27.9 million was obtained for the class.



**WEISS & LURIE**

In re Bank of New York Derivative Litigation (Sup. Ct. NY): A recovery of \$26.5 million was obtained for the Company and significant corporate governance measures were adopted.

In re FirstEnergy Shareholder Derivative Litigation (N.D. Ohio): A recovery of \$25 million was obtained for the Company and significant corporate governance measures were adopted.

In re Vodafone Group, PLC Securities Litigation (S.D.N.Y.): A recovery of \$24.5 million was obtained for the class.

In re Abbey Healthcare Securities Litigation (C.D. Cal.): A recovery of \$20.5 million was obtained for the class.

Feinberg v. Hibernia Corp. (D. La.): A recovery of \$20 million was obtained for the class.

In re Southern Pacific Funding Corp. Sec. Litig. (D. Or.): A recovery of \$19.5 million was obtained for the class.

In re Aura Systems, Inc. Securities Litigation (C.D. Cal.): A recovery of \$18 million was obtained for the class.

In re MK Rail Securities Litigation (D. Idaho): A recovery of \$14.65 million was obtained for the class.

In re California Microwave Securities Litigation (N.D. Cal.): A recovery of \$14 million was obtained for the class.

In re KeySpan Corporation Securities Litigation (E.D.N.Y.): A recovery of \$13.75 million was obtained for the class.

In re Elscint Ltd Securities Litigation (D. Mass.): A recovery of \$12 million was obtained for the class.

Bash v. Diagnostek (D.N.M.): A recovery of \$11.7 million was obtained for the class.

In re Megafoods Securities Litigation (D. Ariz.): A recovery of \$12 million was obtained for the class.

In re GTECH Securities Litigation (D.R.I.): A recovery of \$10.25 million was obtained for the class.

In re Complete Management, Inc. Securities Litigation (S.D.N.Y.): A recovery of \$10.15 million was obtained for the class.

Berlinsky v. Alcatel (S.D.N.Y.): A recovery of \$8.8 million was obtained for the class.

Lopez v. Checkers Drive-In Restaurants, Inc. (M.D. Fl.): A recovery of over \$8.175 million was obtained for the class.

In re Mesa Airlines Securities Litigation (D.N.M.): A recovery of \$8 million was obtained for the class.

In re Resound Securities Litigation (N.D. Cal.): A recovery of \$8 million was obtained for the class.

**WEISS & LURIE**

In re Castle Energy Corp. Securities Litigation (C.D. Cal.): A recovery of \$7.5 million was obtained for the class.

In re Western Digital, Inc. Securities Litigation (C.D. Cal.): A recovery of \$6.75 million was obtained for the class.

In re Circle K Securities Litigation (D. Ariz.): A recovery of \$6 million was obtained for the class.

In re Aura Systems, Inc. Securities Litigation (C.D. Cal.): A recovery of \$5.55 million was obtained for the class.

In re Ascend Communications Securities Litigation (C.D. Cal.): A recovery of \$5.45 million was obtained for the class.

In re Southmark Securities Litigation (D. Tex.): A recovery of \$5 million was obtained for the class.

In re WCT Securities Litigation (C.D. Cal.): A recovery of \$5 million was obtained for the class.

In re Sumitomo Bank of California Securities Litigation (San Francisco Sup. Ct.): A recovery of \$4.95 million was obtained for the class.

In re NextLevel Systems, Inc. Securities Litigation (N.D. Ill.): A recovery of \$4.6 million was obtained for the class.

In re Shopping.com Securities Litigation (C.D. Cal.): A recovery of \$4.5 million was obtained for the class.

In re Denver Bonds Securities Litigation (D. Colo.): A recovery of \$4.5 million was obtained for the class.

In re Molecular Dynamics, Inc. Securities Litigation (N.D. Cal.): A recovery of \$4 million was obtained for the class.

In re Party City Corp. Securities Litigation (D.N.J.): A recovery of \$3.8 million was obtained for the class.

In re Iwerks Securities Litigation (C.D. Cal.): A recovery of approximately \$3.5 million was obtained for the class.

In re Davstar, Inc. Securities Litigation (C.D. Cal.): A recovery of \$3.4 million was obtained for the class.

In re Trident Securities Litigation (N.D. Cal.): A recovery of \$3.15 million was obtained for the class.

In re Twinlab Corp. Securities Litigation (E.D.N.Y.): A recovery of \$3 million was obtained for the class.

**WEISS & LURIE**

In re Offshore Pipelines Securities Litigation (S.D.N.Y.): A recovery of \$3 million was obtained for the class.

Gorga v. Uniroyal Chemical Corp. (Sup. Ct. Conn.): A recovery of \$3 million was obtained for the class.

In re Amylin Pharms. Securities Litigation (S.D. Cal.): A recovery of \$2.1 million was obtained for class.

**CLASS AND DERIVATIVE ACTIONS HANDLED BY WEISS & LURIE WHERE A SIGNIFICANT BENEFIT WAS OBTAINED FOR THE COMPANY AND/OR THE SHAREHOLDERS**

In re Santa Fe Southern Pacific Corporation (Del. Ch.).

In re Genentech Shareholder Litigation (N.D. Cal.).

In re Beverly Enterprises Shareholder Litigation (Del. Ch.).

In re Tandon Computer Shareholder Litigation (C.D. Cal.).

In re Sears Shareholder Litigation (D. Ill.).

In re Xoma Shareholder Litigation (N.D. Cal.).

In re Castle Energy Corp. Shareholder Litigation (C.D. Cal.).

In re Times-Mirror, Inc. Shareholder Litigation (C.D. Cal.).

In re Lockheed Corp. Shareholder Litigation (C.D. Cal.).

In re Nexgen Securities Litigation (N.D. Cal.).

In re GT Greater Europe Securities Litigation (N.D. Cal.).

In re Pairgain Securities Litigation (S.D. Cal.).

In re AMI Securities Litigation (L.A. Superior).

Wallace v. Fox, et al. (Northeast Utilities) (D. Conn.).

**WEISS & LURIE**

**BRIEF BIOGRAPHIES OF WEISS & LURIE ATTORNEYS**

**JOSEPH H. WEISS** is a 1972 graduate of Columbia University Law School, where he was an editor of the Law Review. He is also a 1972 graduate of Columbia University Graduate School of Business from which he obtained a Masters in Business Administration. Mr. Weiss is a member of the Bar of the State of New York and is admitted to practice in the Southern District of New York, the Eastern District of New York, the Courts of Appeal for the First, Second, Third, Ninth and Federal Circuits, and has been admitted to practice in numerous other federal and state courts. He specializes in prosecuting class and derivative actions throughout the United States and has been appointed lead counsel and successfully concluded numerous such actions.

**JORDAN L. LURIE** is a partner in the Los Angeles office. Mr. Lurie received his law degree in 1987 from the University of Southern California Law Center where he was Notes Editor of the University of Southern California Law Review. He received his undergraduate degree from Yale University in 1984 (*cum laude*). Mr. Lurie has participated in all aspects of class actions. Mr. Lurie is the co-author of "Postponing a Municipal Court Election: The November Election Provision of Government Code Section 71180(b)," California Courts Commentary, November 1989; co-author of "Chapter 54 - Consent Judgment" and "Chapter 55 - Submitted Case," Civil Procedure Before Trial (1990), published by California Continuing Education of the Bar; and author of "Rx for Pharmacy Malpractice: California's New Duty to Consult," CEB Civil Litigation Reporter, December 1991.

Mr. Lurie also has been a featured speaker at California Mandatory Continuing Legal Education seminars regarding securities fraud and class actions. Mr. Lurie is a member of the State Bar of California and is admitted to practice before the United States District Courts for the Northern, Southern, Central and Eastern Districts of California.

**MOSHE BALSAM** is a senior associate in the New York office. He graduated from Brooklyn Law School in 1981 with a specialty in securities law. He was admitted to the New York State Bar in

**WEISS & LURIE**

1982. Mr. Balsam is also a member of the bars of the United States District Courts for the Southern and Eastern Districts of New York and has been admitted to practice before various other state and federal courts. He has participated in all aspects of numerous class action and shareholder derivative cases.

**DAVID C. KATZ** is a senior associate in the New York office. He is a 1988 Graduate of Benjamin N. Cardozo School of Law. He is admitted to the New York State Bar and the United States District Courts for the Southern and Eastern Districts of New York. He is experienced in all aspects of securities class and derivative litigation at both the trial and appellate level, and leads the firm's efforts devoted to enhancing corporate governance.

**JOSEPH D. COHEN** is a senior associate in the New York office. He graduated from Case Western Reserve University School of Law in May 1989, where he received an award for excellence in Business Law. He received an LL.M in Corporate law from New York University in 1990. Mr. Cohen has co-authored several articles: "Mitsubishi and Shearson: A Misplaced Trust in Arbitration," New England Business Law Journal, 1990; "The Effects of Tax Reform on Golden Parachutes," North Atlantic Regional Business Law Review, August 1988; "Dual Class Common Stock and Its Effects on Shareholders and Legislators," American Business Law Association National Proceedings, August 1988.

Mr. Cohen is admitted to the State Bars of California and Rhode Island, as well as the District of Columbia and the United States District Courts for the Central, Southern and Northern Districts of California.

**JAMES E. TULLMAN** is an associate in the New York office. He graduated from the University of Delaware (B.A., 1988), and The Jacob D. Fuchsburg Law Center of Touro College (J.D., 1991), where he was an editor of the Journal of the Suffolk Academy of Law, Touro College, 1990-1991. Mr. Tullman is admitted to the state bars of Connecticut, New York, and California, as well as the United States District Courts for the Southern and Eastern Districts of New York, the Northern, Central and Southern Districts of California, and the United States Court of Appeal for the Ninth and Third Circuit.

**WEISS & LURIE**

**RICHARD A. ACOCELLI** is an associate in the New York Office. He received his law degree in 1990 from St. John's University School of Law. He is admitted to the State Bar of New York and the United States District Courts for the Southern and Eastern Districts of New York and the Eastern District of Michigan.

**JACK I. ZWICK** is an associate in the New York Office. He received his law degree in 1993 from Benjamin N. Cardozo School of Law. He is admitted to the New York State Bar and the United States District Courts for the Southern and Eastern Districts of New York.

**LEIGH A. PARKER** is an associate in the Los Angeles office. She graduated from Indiana University (B.A. 1981), received her M.B.A. from the American Graduate School of International Management in 1982 and graduated from Loyola Law School in 1993, where she was a member of the Scott Moot Court Honors Board. She is admitted to the Bar of the State of California and the United States District Courts for the Central, Northern, Southern and Eastern Districts of California, as well as the Ninth Circuit Court of Appeals.

**MARK D. SMILOW** is an associate in the New York office. He graduated Benjamin N. Cardozo School of Law in 1993, *magna cum laude*, where he was a member of the Cardozo Law Review. He is admitted to the New York and New Jersey State Bars, and the United States District Courts for the Southern and Eastern Districts of New York. He has also been admitted in other courts throughout the nation for particular cases. He has litigated all aspects of numerous class, shareholder, derivative and consumer class actions in both trial and appellate courts.

**ZEY B. ZYSMAN** is an associate in the Los Angeles office. He graduated from the University of Southern California (B.A. 1991), and received his law degree from the University of California, Hastings College of the Law (J.D. 1994). Mr. Zysman is admitted to the Bar of the State of California and the United States District Court for the Central District of California.

**WEISS & LURIE**

**JULIA J. SUN** is a junior associate in the New York office. She received her B.A. in Political Science from Barnard College, Columbia University in 1998 and her J.D. from Brooklyn Law School in 2003. Ms. Sun is admitted to the Bar of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York.

**ILYA NUZOV** is a junior associate in the New York office. He received his B.S. in Finance from Rutgers University in 2001 and his J.D. from Brooklyn Law School in 2004. During law school, Mr. Nuzov worked at the State of New Jersey Office of the Attorney General, Bureau of Securities. Mr. Nuzov is admitted to the Bar of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York.

**JOSHUA M. RUBIN** is a junior associate in the New York office. He received a Bachelor of Talmudic Law from Ner Israel Rabbinical College in 2002 and his J.D. from Benjamin N. Cardozo School of Law in 2005. Mr. Rubin is admitted to the Bar of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York. He is also an arbitrator qualified by the New York State Dispute Resolution Association and an emergency medical technician.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHN M. SPAHN, IRA, On Behalf of	)	Case No. 4 04CV00086HEA
Himself and All Others Similarly Situated,	)	
	)	Consolidated Case Nos.
Plaintiffs,	)	
	)	4:04-CV-00118 CAS
v.	)	4:04-CV-00255 DJS
	)	4:04-CV-00282 DJS
EDWARD D. JONES & CO., L.P.,	)	4:04-CV-00466 HEA
JOHN W. BACHMANN, DOUGLAS E.	)	4:04-CV-00467 HEA
HILL, MICHAEL R. HOLMES, RICHIE L.	)	
MALONE, STEVEN NOVIK, DARRYL L.	)	<u>CLASS ACTION</u>
POPE and ROBERT VIRGIL JR.,	)	
	)	
Defendants.	)	

RACHEL M. ENRIQUEZ, Custodian for	)	Cause No. 4 06CV00547HEA
Diego Enriquez under IL/UTMA, On Behalf	)	
of Herself and All Others Similarly Situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Removed from the Circuit Court
	)	of the City of St. Louis, Missouri
EDWARD D. JONES & CO., L.P., et al.,	)	Cause No. 042-00126A
	)	
Defendants.	)	

**DECLARATION OF CHARLES J. PIVEN FILED ON BEHALF OF  
BROWER PIVEN, A PROFESSIONAL CORPORATION  
IN SUPPORT OF APPLICATION FOR AWARD  
OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**



I, Charles J. Piven, declare as follows:

1. I am a principal of the firm Brower Piven, A Professional Corporation. I am submitting this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the prosecution and settlement of the claims asserted in the above-entitled action and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. This firm is counsel of record for plaintiff John M. Spahn, IRA.

3. The identification and background of my firm and its partners is attached hereto as Exhibit A.

4. The total number of hours spent on this litigation by my firm is 78.3. The total lodestar amount for attorney time based on the firm's current rates is \$42,460.00. The hourly rates shown below are the usual and customary rates charged in all of our cases. A breakdown of the lodestar is as follows:

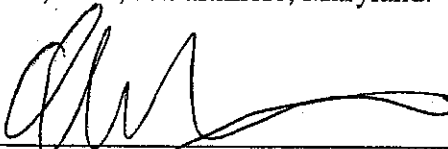
ATTORNEY	HOURS	HOURLY RATE	TOTAL LODESTAR
Charles J. Piven (Principal)	55.7	\$600.00	\$33,420.00
Marshall N. Perkins (Associate)	22.6	\$400.00	\$ 9,040.00
<b>TOTALS</b>	<b>78.3</b>		<b>\$42,460.00</b>

5. My firm incurred a total of \$587.32 in unreimbursed expenses in connection with the prosecution of this litigation. These expenses are broken down as follows:

DISBURSEMENTS	TOTAL
Court Costs	50.00
Lexis/Nexis	100.62
Printing/Photocopying	363.75
Postage/Express Mail	72.95
<b>TOTAL</b>	<b>\$587.32</b>

6. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 8th day of October, 2007, at Baltimore, Maryland.

  
\_\_\_\_\_  
Charles J. Piven

## **BROWER PIVEN**

**A PROFESSIONAL CORPORATION**

With offices in New York City and Baltimore, Maryland, Brower Piven focuses its practice in the areas of complex class action and other representative litigation. The firm's practice areas, while diverse, enable Brower Piven clients to call upon experience and resources available at few firms of its size. Brower Piven clients range from institutional and large private investors, to small and large businesses, to small individual investors and retail consumers. Regardless of the size of the matter, Brower Piven provides every client with the professional service, care, and quality that Brower Piven believes every client deserves.

Attorneys at Brower Piven, some with over 25 years of experience, are nationally recognized in the class action arena. The firm's attorneys have vast experience advising and representing plaintiffs in class actions under the federal securities laws; federal and state consumer protection laws; federal and state antitrust laws; state shareholder and corporate governance laws; federal and state environmental laws; and federal RICO laws. Brower Piven attorneys have served their clients in literally hundreds of actions in virtually every state and federal court in the nation.

Some current matters in which Brower Piven has a leadership role demonstrate the scope of the firm's expertise. Brower Piven is co-lead counsel in the *In re Merck Securities, Derivative, and "ERISA" Litigation* pending in the United States District Court for the District of New Jersey, considered by many the largest federal securities fraud action in terms of damages in history, and co-lead and liaison counsel in the shareholder litigations challenging the proposed \$38 billion take-over of Equity Office Properties Trust, one of the largest going private transaction in business history. Brower Piven is also co-lead counsel in the following federal securities class actions: *Wagner v. Barrick Gold Corporation et al.* (S.D.N.Y.); *In re Interlink Electronics, Inc. Securities Litigation* (C.D. Cal.); *In re FoxHollow Technologies, Inc. Securities Litigation* (N.D. Cal.); *Levie v. Sears Roebuck & Co. et al.* (N.D. Ill.); and *In re Arotech Corp. Securities Litigation* (E.D.N.Y.). Brower Piven is or was co-lead and/or liaison counsel representing shareholders in the following merger-related class actions: *Blaz v. Pan Pacific Retail Properties, Inc. et al.* (Cir. Ct., Balt. Co.); *In re Reckson Associates Realty Corp. Shareholders Litigation* (N.Y. Sup. Ct., Nassau Co.); *In re Fairchild Corp. Shareholders Litigation* (Del. Ch.); *In re Laureate Education Shareholder Litigation* (Cir. Ct. Balt. City); *In re PHH Corporation Transaction Litigation* (Cir. Ct., Balt. Co.); *In re Huntsman Corporation Shareholder Litigation* (Del. Ch.). Brower Piven is also counsel in the consumer class action, *H&R Block, Inc. "Express IRA" Marketing Litigation*, MDL No. 1786 (W.D. Mo.).

The breadth of Brower Piven's experience, which includes extensive experience counseling and representing defendants, corporations and their executives, real estate developers and large private investors in complex commercial litigation, class and non-class action litigation, and on corporate governance matters. The firm's experience on both sides of the bar makes it uniquely qualified to provide its clients with a perspective not available from firms that solely represent plaintiffs or defendants. The success of the strategy pursued by Brower Piven's attorneys in representing their clients over the years has been demonstrated by clients and classes represented by attorneys at Brower Piven attorneys recovering over \$1 billion in past and pending recoveries.

The following is a sampling of the cases and results achieved by attorneys at Brower Piven where they have served as lead or co-lead counsel for plaintiffs:

*Steiner v. Southmark Corporation*, No. 3-89-1387-D (N.D. Tex.), federal securities fraud class action against defunct real estate partnership marketer and its outside accountants resulting in a recovery of over \$75 million in cash for investors.

*In re Petro-Lewis Securities Litigation*, No. 84-C-326 (D. Colo.), a federal securities fraud class action on behalf of limited partners and shareholders where plaintiffs recovered over \$100 million in cash and benefits including the restructuring of dozens of oil and gas limited partnerships.

*In re StarLink Products Liability Litigation*, MDL No. 1403, No. 01 C 4928 (N.D. Ill.), representing all American corn farmers in nationwide litigation against manufacturer of unapproved pesticide which alleged infected the U.S. corn supply and recovering over \$125 million in cash for the class member.

*Romig v. Jefferson-Pilot Life Insurance Company*, 95 CVS 9703 (Supr. Ct. N.C.), deceptive insurance sales practices action brought on behalf of a class of Jefferson Pilot life insurance purchasers, resulting in a recovery for policyholders valued at over \$55 million.

*In re MicroStrategy Securities Litigation*, No. 00-473-A (E.D. Va.), a federal securities fraud class, where over \$125 million was recovered for investors, the Court commented that: "Clearly, the conduct of all counsel in this case and the result they have achieved for all of the parties confirms that they deserve the national recognition that they enjoy."

*In re Arakis Energy Corporation Securities Litigation*, No. 95-CV-3431 (ARR) (E.D.N.Y.), federal securities class action against Canadian company resulting in a recovery of over \$24 million for investors.

*In re Spectrum Information Technologies Securities Litigation*, CV-93-2295 (FB) (E.D.N.Y.), securities fraud action against bankrupt issuer where over \$10 million in cash was recovered (including all insurance coverage available) for investors following successful trial and appeal against directors' and officers' insurance carrier who attempted to disclaim coverage.

*In re Bristol-Myers Squibb Securities Litigation*, 92-CIV-4007 (JES) (S.D.N.Y.), federal securities class action resulting in recovery of over \$19 million in cash for investors.

*Steiner v. Ideal Basic Industries, Inc.*, No. 86-M-456 (D. Colo.), federal securities class action against the former *Fortune 500* cement manufacturer resulting in an over \$17.5 million recovery in cash for investors.

*In re Broadwing Securities Litigation*, No. C-1-02-795 (S.D. Ohio), federal securities class action against major public utility/broadband company resulting in a recovery of over \$35 million in cash for investors.

*Berger v. Compaq Computer Corporation*, No. 00-20875 (S.D. Tex.), a federal securities class action where, after a successful appeal of a question of first impression in the federal appellate courts relating to the selection of lead plaintiffs and class certification in the Fifth Circuit under the Private Securities Law Reform Act of 1995, over \$29 million was recovered for investors.

*In re Bausch & Lomb Securities Litigation*, No. 01-CV-6190 (CJS) (W.D.N.Y.), federal securities class action resulting in a recovery of over \$ 12.5 million for investors.

*Slone v. Fifth Third Bancorp et al.*, No. 1:03-CV-211 (S.D. Ohio), securities fraud action against one of the largest mid-west bank holding companies, resulting in a recovery of \$17 million for investors.

*Pozniak v. Imperial Chemical Industries, PLC, et al.*, No. 1:03 cv 2457(NRB)(S.D.N.Y.), securities fraud action against one of the United Kingdom's largest public corporations, resulting in a recovery of approximately 90% of recoverable damages in cash for investors.

*J.E. Pierce Apothecary, Inc. v. Harvard-Pilgrim Health Care, Inc., et al.*, No. 98-12635-WGY (D. Mass.), unfair and deceptive trade practices action on behalf of independent Massachusetts pharmacies against Harvard Pilgrim HMO and CVS Pharmacies, Inc. resulting, after bench trial, in excess of 100% of estimated recoverable damages for the class, including trebling.

The foregoing sampling of results is the product of the depth and breadth of the professional experience of attorneys at Brower Piven. The firm's attorneys include:

**DAVID A.P. BROWER**

Mr. Brower has over 25 years of complex litigation experience. Mr. Brower has successfully represented plaintiffs in class action securities, consumer protection, environmental, antitrust and RICO actions, and representative shareholder derivative and take-over litigation. Mr. Brower, a member of the Bar of the State of New York, is also admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eleventh Circuits, and innumerable federal and state trial courts. Mr. Brower has participated in the prosecution as lead or co-lead counsel in successful federal securities law class actions against, among others: Imperial Chemical Industries, Fifth Third Bancorp, Southmark Corp., Ideal Basic Industries, Bristol-Myers Squibb, Tower Semiconductor, Gibson Greetings, Arakis Energy Corp., Scoreboard, Coastal Healthcare, Everest & Jennings International, B.T. Office Products, Profit Recovery, Enstar Corp., Jenifer Convertibles, Warner Communications, Sambo's Restaurants, Sunrise Savings & Loan, Phillip Morris Companies, Bausch & Lomb, Nanophase Technologies, Ramada Inns, Michael Stores, Inc., Consumers Power Co., Broadwing/Cincinnati Bell, Compaq Computer Corp., and Computer Associates. Mr. Brower has also participated in the prosecution as lead or co-lead counsel in merger litigation on behalf of, among others, public shareholders of Sheller Globe Corp., Petro-Lewis Corp., Floating Point Systems, Holnam Corp., Wometco Enterprises, Inc., Great Bay Casinos Corp., Home Shopping Networks, MCA, Holly Sugar Co., and ARM Financial Group; and

shareholder derivative actions on behalf of shareholders of Banner Industries, Marsh & McLennan Companies, and Merrill Lynch, Pierce, Fenner & Smith.

Since 2004, Mr. Brower has been one of the lead attorneys with day-to-day responsibility for the prosecution of the securities fraud claims in *In re Merck & Co, Securities, Derivative & ERISA Litigation*, MDL No. 1658, No. 2:05-CV-02367 (D. N.J.), an action where the damages to class member are estimated to be among the largest in the history of federal securities class litigation. Additionally, while at his former firm, Mr. Brower was one of the attorneys with primary responsibility for class certification issues, including successfully arguing the class certification motion before the trial court, in *In re Initial Public Offering Securities Litigation*, 21 MC 92 (S.D.N.Y.), among the largest securities litigations ever prosecuted, encompassing approximately 309 consolidated class action cases alleging market manipulation claims in connection with the initial public offering of securities by over 55 defendant underwriters. Mr. Brower also served as liaison counsel in *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (S.D.N.Y.), which resulted in a recovery of over \$75 million for Sotheby's investors.

Mr. Brower has also served as lead or co-lead counsel in consumer fraud actions against Aventis CropScience, Compaq Computer Corporation, Jefferson-Pilot Life Insurance Company, Sprint PCS Wireless, Metropolitan Life Insurance, Harvard Pilgrim Healthcare, and CVS Corporation. In the antitrust field, Mr. Brower acted as lead counsel in litigation against Monsanto Company, E. I. du Pont de Nemours and Company and Pioneer Hybrid International, Inc. (No. 4:05-CV-01108-ERW (E.D. Mo.)), on behalf of genetically modified seed purchasers, and has participated in the *In re Initial Public Offering Antitrust Litigation*, No. 01 CIV 2014 (WHP) (S.D.N.Y.),.

In the area of environmental law, Mr. Brower has served as one of the lead attorneys in pollution actions on behalf of Oklahoma landowners against chicken producers, including Tyson Foods, Inc.; and counsel for Missouri landowners in pork producer nuisance actions against Contigroup Companies, Inc. (formerly Continental Grain) and Premium Standard Farms, which recently resulted in verdicts in favor of neighboring farmers.

Before joining Brower Piven, Mr. Brower also has represented a nationwide class of hospitals in RICO litigation against Tenet Healthcare Corporation based on claims that its conduct caused class member hospitals to receive reduced "Outlier" reimbursements from Medicare.

Mr. Brower has also represented: directors and officers of public companies in securities class actions, including the directors of Heritage Hospitals; represented a former multi-state hospital developer; advised boards of directors of public companies regarding their fiduciary responsibilities; provided opinions as special counsel under Delaware law to public companies, including MGM/UA; represented insurance and reinsurance companies in coverage litigation, including matters involving Johns Manville, PepsiCo and Hilton Hotels; represented commodities dealers and brokers in connection with Commodities Futures Trading Commission reparations actions; represented foreign corporations in United States litigation, including one of Japan's largest electronics, international hotel and resort companies in litigation against its American counsel and financial advisors; represented a Brazilian trust holding claims for one of Brazil's largest telecommunications companies; and defended a large, Florida-based, national



mortgage brokerage company, Foundation Funding, in class action litigation brought under the Truth In Lending Act.

Mr. Brower, is a graduate of Columbia College of Columbia University (A.B. 1979), and the Georgetown University Law Center (J.D. 1982), and he attended King's College, University of London (1980), where he studied comparative, international, and EC transactional law. Mr. Brower regularly lectures before professional organizations and at CLE-accredited conferences on the class action procedures and securities laws and shareholder and investor rights, including the American Law Institute/American Bar Association Advanced Course of Study Program, the Practising Law Institute, and the New York State Bar Association. Mr. Brower regularly writes on class action procedures and new issues in class action jurisprudence. Mr. Brower is a long-time member of the New York State Bar Association Subcommittee on Class Actions, has participated as a member of the Executive Committee of the National Association of Securities and Consumer Law Attorneys, and actively participated in legislative initiatives relating to the Private Securities Litigation Reform Act of 1995 and the Class Action Fairness Act of 2005.

#### **CHARLES J. PIVEN**

Mr. Piven is a seasoned litigator who has led his own practice since 1990. During his 29 years in practice, Mr. Piven has represented individuals, partnerships, trusts, pension plans and corporations in many types of cases. Mr. Piven's experience includes litigation in the areas of complex securities, shareholder, consumer protection, personal injury and property damage class actions, merger and acquisition class actions, bankruptcy, first amendment, copyright, employment, wrongful death, and legal, medical, accounting and broker malpractice.

Class and representative actions in which Mr. Piven has served as lead, co-lead, liaison or local counsel include, among others, Baltimore Bancorp securities litigation, USFG securities litigation, Yorkridge Calvert Savings & Loan securities litigation, Maryland National Bank securities litigation, Reckson Associates Realty Company derivative litigation, Read-Rite Corporation securities litigation, Mid-Atlantic Realty shareholder merger litigation, Pan Pacific Realty shareholder merger litigation, Allied Irish Banks derivative litigation, Sprint Spectrum Cellular Telecommunications Company consumer litigation, IWIF Wiretap consumer litigation, Land Rover Group Ltd. consumer litigation, Cellular One consumer litigation, H&R Block Refund Anticipation Loan consumer litigation, Prison Telephone consumer litigation, and BlueCross/Blue Shield consumer litigation.

In recent years, Mr. Piven has taken an active role in the prosecution of litigation relating to allegations that mutual fund investors have been victimized by directed brokerage arrangements, excessive fees, excessive commissions and deceptive sales practices or other actionable conduct. Some of the mutual fund families and brokerage firms involved in these cases that Mr. Piven has been responsible for originating include: Lord Abbott, AIM/Invesco, BlackRock, Davis, Eaton Vance, Dreyfus, Evergreen, Federated, Alliance, Franklin, Hartford, MFS, PIMCO, Scudder, Columbia, Goldman Sachs, Merrill Lynch, Morgan Stanley, Salomon Smith Barney, Edward Jones, UBS, Wells Fargo and American Express. Investors in mutual fund cases initiated or led by Mr. Piven's clients have achieved a proposed settlement with mutual fund marketer Edward

Jones for over \$125,000,000 and approved settlements with American Express for approximately \$100,000,000 and with Merrill Lynch for approximately \$39,000,000.

Mr. Piven also directly represents the lead plaintiff(s) and/or proposed class representative(s) in approximately 25% of the 309 cases encompassed by the Initial Public Offering Securities Litigation pending in the Southern District of New York, and Mr. Piven and the firm have taken an active role in the discovery in this litigation.

Mr. Piven also has experience in the field of ERISA class actions on behalf of former and current company employees. ERISA cases in which Mr. Piven is or has been counsel for named plaintiffs include: Aquila ERISA litigation (W.D. Mo.); General Motors ERISA litigation (E.D. Mich.); ConAgra Foods ERISA litigation (D. Neb.); the Coca-Cola Enterprises ERISA litigation (N.D. Ga.); Fannie Mae ERISA litigation (D. D.C.); Delphi ERISA litigation (E.D. Mich.); Ford Motor Company ERISA litigation (E.D. Mich.) and the Pfizer ERISA litigation (S.D.N.Y.).

Mr. Piven is a 1975 graduate of Washington University and a 1978 graduate of the University of Miami School Of Law. During law school, Mr. Piven was a student law clerk for the late Honorable United States District Judge C. Clyde Adkins of the Southern District of Florida. Mr. Piven was admitted to the bars of the States of Florida (currently inactive) and Maryland in 1978. Mr. Piven is a member in good standing of the Court of Appeals of Maryland, the United States Court of Federal Claims, the United States Tax Court, the United States District Court for the Districts of Maryland and Colorado, and the United States Courts of Appeals for the First and Fourth Circuits.

#### **MARSHALL N. PERKINS**

Mr. Perkins practices in the firm's consumer and securities class action, shareholder, complex professional negligence, and tort litigation areas. Additionally, Mr. Perkins is currently, or has been actively involved with, prosecuting claims on behalf of landowners in Harford County, Maryland proceeding in the United States District Court for the Southern District of New York relating to MTBE contamination; claims of computer/hardware owners for deceptive sales practices; claims of Maryland landowners for trespass by Comcast Corp. for its overhead transmission lines; and a number of complex professional negligence cases in the Maryland Circuit Courts.

Illustrative of his previous experience, Mr. Perkins has successfully represented a proposed class of tax advisory customers alleging consumer protection claims before Maryland's highest court, *see Green v. H & R Block*, 355 Md. 488, 735 A.2d 1039 (1999); and a proposed class alleging violation of Maryland's wiretap statute, in *Schmerling v. IWIF*, 368 Md. 434, 795 A.2d 715 (2002). Mr. Perkins' business litigation experience includes representing the bankruptcy trustee in several contingent litigation matters in *In re TimeWorldCom, Inc.*, Case No. 99-1-7353-PM, 905 A. 2d 842 (Bankr. D. Md. 2006).

Mr. Perkins is a 1997 *magna cum laude* graduate of the University Of Baltimore School Of Law, where he was a staff editor for the *University of Baltimore Law Forum*. Mr. Perkins graduated Phi Beta Kappa, *magna cum laude*, with a Bachelor of Arts degree from the University of



Maryland, College Park. Mr. Perkins is a member of the Bar of the State of Maryland, as well as the Bars of the Maryland Federal District Court and the United States Court of Appeals for the Fourth Circuit.

Following receipt of his *juris doctor* in May, 1997, Mr. Perkins was a law clerk to the Honorable Irma S. Raker, Judge, Court of Appeals of Maryland, Maryland's highest court. Mr. Perkins' publications include: Note, *United States v. Virginia, State May Not Maintain a "Unique" Single-Sex Educational Facility Without Providing a Comparable Facility to the Excluded Gender*, 27.1 U. Balt. L. Forum 51 (1996); *Beyond the Roar of the Crowd: Victim Impact Testimony Collides With Due Process*, 27.2 U. Balt. L. Forum 31 (1997).

#### **ELIZABETH A. SCHMID**

Ms. Schmid is a member of the Bar of the State of New York. Ms. Schmid earned her *juris doctor* at the University of Buffalo in May 2005, where she was a National Criminal Moot Court Finals Competitor (Spring, 2005); Wechsler Intramural Moot Court Competition Winner (Fall 2004); Mock Trial competitor, Erie County Courthouse (Fall, 2004); and a contributor to the *Buffalo Women's Law Journal* (Spring, 2005). Ms. Schmid attended Sweet Briar College in Lynchburg, Virginia, and received her Bachelor of Arts from Stony Brook University in May 2000.

Following her law school graduation, Ms. Schmid commenced her practice in the Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith, Inc., in New York City, where she participated in day-to-day management of significant litigation and risk management projects, and assisted in preparation of reports and litigation studies relating to securities claims, broker/dealer disputes, and investor/customer complaints.

Prior to graduating from law school, Ms. Schmid worked as a law clerk at New York's Paul, Weiss, Rifkind, Wharton, & Garrison LLP (2005), where she concentrated on large-scale discovery projects; and Watson, Bennett, Colligan, Johnson & Schechter, LLP in Buffalo, NY (2003-2004), where she obtained experience in the areas of insurance, real estate, environmental, employment, and bankruptcy law. Ms. Schmid also served in 2004 as a Legal Intern in the Office of the District Attorney for Suffolk County, New York.

#### **BROWER PIVEN**

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOHN M. SPAHN, IRA, On Behalf of	)	Case No. 4 04CV00086HEA
Himself and All Others Similarly Situated,	)	
	)	Consolidated Case Nos.
Plaintiffs,	)	
	)	4:04-CV-00118 CAS
v.	)	4:04-CV-00255 DJS
	)	4:04-CV-00282 DJS
EDWARD D. JONES & CO., L.P.,	)	4:04-CV-00466 HEA
JOHN W. BACHMANN, DOUGLAS E.	)	4:04-CV-00467 HEA
HILL, MICHAEL R. HOLMES, RICHIE L.	)	
MALONE, STEVEN NOVIK, DARRYL L.	)	<b><u>CLASS ACTION</u></b>
POPE and ROBERT VIRGIL JR.,	)	
	)	
Defendants.	)	

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RACHEL M. ENRIQUEZ, Custodian for	)	Cause No. 4 06CV00547HEA
Diego Enriquez under IL/UTMA, On Behalf	)	
of Herself and All Others Similarly Situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Removed from the Circuit Court
	)	of the City of St. Louis, Missouri
EDWARD D. JONES & CO., L.P., et al.,	)	Cause No. 042-00126A
	)	
Defendants.	)	

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**DECLARATION OF KIRK B. HULETT FILED ON BEHALF OF HULETT HARPER  
STEWART LLP IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF EXPENSES**

I, KIRK B. HULETT, declare as follows:

1. I am a member of the firm Hulett Harper Stewart LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the prosecution and settlement of the claims asserted in the above-entitled action and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. This firm is counsel of record for plaintiff Rachel M. Enriquez, Custodian for Diego Enriquez under IL/UTMA.

3. The identification and background of my firm and its partners is attached hereto as Exhibit A.

4. The total number of hours spent on this litigation by my firm is 2,780.44. The total lodestar amount for attorney/paralegal time based on the firm's current rates is \$1,109,095.30. The hourly rates shown below are the usual and customary rates charged in all of our cases. A breakdown of the lodestar is as follows:

Name (Status)	Hourly Rate	Cumulative Hours	Cumulative Lodestar
Hulett, Kirk (P)	\$550.00	1414.32	\$777,876.00
Stewart, Dennis (P)	\$550.00	49.60	\$27,280.00
Dieringer, Stephanie (A)	\$335.00	10.00	\$3,350.00
Gramme, Bridget (A)	\$300.00	53.25	\$15,975.00
Hawkes, David (A)	\$225.00	13.00	\$2,925.00
Kagan, Jennifer (A)	\$300.00	35.00	\$10,500.00
Sjoblom, Randall (A)	\$325.00	190.15	\$61,798.75
Weber, Sarah (A)	\$300.00	192.00	\$57,600.00
Dewan, Ellen (PL)	\$150.00	2.00	\$300.00
Gonzalez, Katie (PL)	\$165.00	246.42	\$40,659.30
Muller, Sara (PL)	\$150.00	27.45	\$4,117.50
Kagan, Jennifer (LC)	\$195.00	22.50	\$4,387.50
Weber, Sarah (LC)	\$195.00	26.25	\$5,118.75
Servais, Andrew (LC)	\$195.00	498.50	\$97,207.50
<b>TOTALS</b>		2780.44	\$1,109,095.30

P = Partner A = Associate PL = Paralegal LC = Law Clerk

5. My firm incurred a total of \$61,771.34 in unreimbursed expenses in connection with the prosecution of this litigation. They are broken down as follows:

DISBURSEMENT	TOTAL
Meals, Hotels & Transportation	\$24,116.57
Photocopies	\$1,981.76
Postage	\$172.76
Telephone, Facsimile	\$1,508.09
Process Server, Messenger, Overnight Delivery	\$4,958.66
Filing, Witness & Other Fees	\$1,565.70
Court Reporters	\$119.09
Lexis, Westlaw, Online Library Research	\$2,028.71
Experts/Consultants/Investigators	
<b>Outside:</b>	\$12,320.00
Litigation Fund	\$13,000.00
<b>TOTAL</b>	<b>\$61,771.34</b>

6. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 5th day of October, 2007, at San Diego, California.

  
KIRK B. HULETT

**EXHIBIT A**

## HULETT HARPER STEWART LLP

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### FIRM RESUME

Hulett Harper Stewart LLP was created in July 2000 to provide quality representation to individual and corporate clients in the areas of complex business, securities, antitrust, consumer, employment, and class litigation. Our three partners bring to the firm more than 70 years of experience as counsel in numerous large, high visibility cases.

In its brief history, Hulett Harper Stewart has obtained a number of multi-million dollar verdicts and settlements for its clients, including a \$30 million settlement in *Stenovich v. Eccles*, a breach of fiduciary duty class action challenging the fairness of a bank acquisition; an \$11 million settlement after trial commenced in an action by a bankruptcy trustee against a debtor's former outside auditors; a recovery for an elderly individual who lost over \$40 million as part of Wall Street's largest single-broker fraud case in history, a multi-million dollar partial settlement for individual clients from the officers and directors of a WorldCom controlled company and a multi-million dollar settlement for a business alleged to have been victimized by antitrust violations. The partners at Hulett Harper Stewart LLP also have considerable experience acting as lead, trial and principal counsel in numerous antitrust, securities and consumer class actions. The firm recently tried a business interference case against a major gaming company to a \$30 million dollar verdict on behalf of a Native American Tribe.

The key strengths of our firm include:

**Attorney Experience** - Our lawyers have decades of collective practice in significant complex litigation and class action representation, and have been recognized for their diligence, energy, skill and imagination.

**Case Success** - As lead or co-lead counsel, we have secured or participated in securing hundreds of millions of dollars in class action and other settlements.

**Client Focus** - Settlements in which we participated have benefited businesses, classes of consumers, investors and employees – and addressed financial fraud and anticompetitive market practices.

**Practice Depth** - Our litigation practice combines a solid understanding of antitrust law, consumer and investor protection, and representation of shareholders and policyholders.

Our mission is to provide high quality legal services and personal attention to our clients in a select number of cases. We place our clients' interests first and employ legal strategies designed to achieve for them the most favorable outcome possible.

Here is a sample of some of our cases:

**Currency Conversion Cases:**

In *Schwartz v. Visa*, Dennis Stewart was one of the principal trial counsel in a California consumer action seeking to recover inadequately disclosed currency conversion fees charged by Visa and MasterCard. After a six-month trial, judgments worth hundreds of millions of dollars were entered. Hulett Harper Stewart is also one of the principal counsel for certified classes prosecuting a separate federal antitrust action against Visa and MasterCard and seven large credit card issuers in federal court in New York.

A proposed \$336 million dollar settlement has been reached subject to Court approval. A similar nationwide consumer class action against American Express has also been settled. If approved by the court, it will result in a settlement fund of \$75 million.

***Pauma Band of Luiseño Mission Indians of The Pauma Yuima Reservation, California v. Caesars Entertainment, Inc., et al.***

Hulett Harper Stewart represented the Pauma Band in a tortious interference action against Harrah's Entertainment, Inc. The firm obtained a \$30 million dollar jury verdict on behalf of the Pauma Band after a five-week trial in late 2006.

***In re Broadcom Corp. Securities Litigation*  
(C.D. Cal.):**

Hulett Harper Stewart played a significant role in the pretrial prosecution of this large federal securities class action, which settled in June 2005 for \$150 million, subject to court approval.

***In re Ligand Pharmaceuticals Inc. Securities Litigation*  
(S.D. Cal.):**

The firm was liaison counsel in this securities class action against this pharmaceutical company which was successfully settled in 2006.

***Guy F. Atkinson, Inc. v. PricewaterhouseCoopers LLP*  
(N.D. Cal.):**

The firm was co-lead trial counsel on behalf of one of the then largest construction companies in America. The case was successfully settled after the trial commenced.

***Abbott, et al. v. John D. ("Jack") Phillips, et al.*  
(San Francisco Superior Court):**

The firm represents several individuals in a securities fraud action against World Access and WorldCom. A partial settlement has been achieved and the remaining claims valued in excess of \$500 million are proceeding to trial.

***Enriquez v. Edward D. Jones & Co.***  
**(St. Louis City Circuit Court, Missouri):**

Hulett Harper Stewart is a co-lead class counsel against Edward Jones & Co., one of the largest brokerage firms in the United States in a case which sought the recovery of funds Edward Jones received from mutual funds in exchange for Edward Jones agreeing to recommend those funds as its "preferred funds." A proposed settlement of \$127 million has been reached subject to Court approval.

***National Credit Reporting Agency, et al. v. Experian Information Solutions, Inc., et al.***  
***Standfacts Credit Services, et al. v. Experian Information Solutions, Inc., et al.***  
**(C.D. Cal.):**

The firm represents numerous credit resellers and the National Credit Reporting Association, Inc., a trade association of independently owned credit reporting companies, in antitrust and unfair business practice lawsuits against the "big three" national credit reporting repositories--Experian, Equifax, and TransUnion, alleging price discrimination and other anticompetitive and exclusionary conduct.

***Adaptive Broadband Cases***  
**(Santa Clara County Superior Court):**

The settled claims were brought by a publicly held company against certain of its former officers and directors for alleged insider trading and misuse of corporate assets.

***Bachman v. AG Edwards, et al.***  
**(St. Louis City Circuit Court, Missouri):**

The firm joined forces with some of the nation's other leading class action firms in a class action against one of Wall Street's largest firms. The claims arise from allegations that AG Edwards violated its fiduciary duties to its customers by accepting payments from Mutual Funds to secure "shelf space" and favorable recommendations.

***National Metal Technologies, Inc. v. Alliant Techsystems Inc., et al.***  
**(S.D. Cal.):**

The firm recently secured a \$6 million dollar settlement for two companies of their antitrust, breach of contract, and tortious interference claims against a major public company.

***In re Conseco Life Insurance Company Cost of Insurance Litigation***  
**(C.D. Cal.):**

Hulett Harper Stewart represents former U.S. Senator Jake Garn and other plaintiffs, and is on the executive committee prosecuting this nationwide consumer class action. Details of a tentative settlement are being finalized.



***Kathie Doyle-Thomas v. Cox Media, Inc.***  
**(S.D. Cal.):**

The firm recently settled a class action brought by a sales executive who claimed the company had improperly withheld wages.

***Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives, et al.***  
**(C.D. Cal.):**

Dennis Stewart of Hulett Harper Stewart was one of the principal attorneys who litigated and negotiated settlements in this antitrust price-fixing case. This class action was brought on behalf of businesses which purchased carbon fiber and carbon fiber prepreg from the defendants. On January 31, 2005, the federal district court approved partial settlements with four defendants totaling \$32.75 million. Further significant settlements are expected.

***Tony Hauser v. Maxworldwide, Inc.***  
**(American Arbitration Association):**

The firm recently settled this arbitration matter for a significant confidential amount arising from allegations that our client was defrauded in connection with the sale of his business.

***Sager, et al. v. Inamed Corp., et al.***  
**(Santa Barbara County Superior Court):**

The firm was co-lead counsel in this consumer fraud class action brought and settled on behalf of over 70,000 women who received breast augmentation surgery.

***Shrestha v. NRT, Inc., et al.***  
**(San Diego County Superior Court):**

The firm is co-lead counsel and was instrumental in successfully appealing and having reversed the denial of a class action motion. The case was successfully settled on behalf of the class.